

1. See *People v Velez*, 131 AD3d 129, 134 (1st Dept 2015) ("Considered as a whole, the instructions and verdict sheet at issue did not adequately convey the principle that if the jury found defendant not guilty of the greater charge on the basis of justification, it was not to consider any lesser counts");
People v Feuer, 11 AD3d 633, 634 (2d Dept 2004) ("[T]he error committed by the trial court in failing to instruct the jurors that if they found the defendant not guilty of a greater charge on the basis of justification, they were not to consider any lesser counts, is of such nature and degree so as to constitute reversible error");
People v Roberts, 280 AD2d 415, 416 (1st Dept 2001) ("Although the court instructed the jurors that justification was a defense to all of the counts, it did not instruct them that if they were to find defendant not guilty by reason of justification on a count, they were not to consider any lesser crimes");
People v Bracetty, 216 AD2d 479, 480 (2d Dept 1995) ("The court failed to instruct the jury that a finding of not guilty by reason of justification [see, Penal Law § 35.05 (2)] on the count of manslaughter in the second degree would preclude a verdict of guilty with regard to the lesser-included offense of criminally negligent homicide, and that the jurors were only to consider the lesser offense if they found the defendant not guilty of the greater offense for a reason other than justification");
People v Higgins, 188 AD2d 839, 840-841 (3d Dept 1992) (The trial court properly "instructed the jury that a finding of justification would preclude a guilty verdict on any of the offenses charged; furthermore, when the lesser included offenses were discussed, the court reiterated that only if defendant was found not guilty of the greater offense for a reason other than justification, was the jury to consider the lesser offense");
People v Castro, 131 AD2d 771, 773 (2d Dept 1987) ("[A]lthough the court properly permitted the jury to consider justification with respect to each of the three counts [of murder, manslaughter in the first degree and manslaughter in the second degree] submitted . . . , the jury should also have been instructed that a finding of not guilty by reason of justification as to any of the counts would preclude a verdict of guilty as to its lesser included offenses" [internal citations omitted]).